



## MINUTES

City Council Regular Meeting  
December 1, 2020 - 7:00 PM

### CALL TO ORDER

Mayor Rudy called the meeting to order at 7:01 p.m.

### PLEDGE

### ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle
	Tammy Mortenson

### AUDIENCE PARTICIPATION

Grant Hoekstra, 4217 Phlox Lane, Evans, CO requested that Ordinance Number 738-20 be removed from Consent Agenda for discussion.

### APPROVAL OF AGENDA

Mayor Rudy amended the agenda to remove Item 3. Consideration of Ordinance Number 738-20 Replat of Lots 1 - 10, Block 11, The Ridge at Prairie View - 2nd Reading from Consent Agenda and move it to Old Business.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to approve the agenda as amended. The motion passed with all voting in favor thereof.

### PROCLAMATION

1. Wreaths Across America in Evans

Mayor Rudy read the Proclamation aloud and proclaims the third Saturday in December as Wreaths Across American in Evans. He then presented the Proclamation to Nancy Critchfield.

Nancy Critchfield thanked the City of Evans for the Proclamation and appreciates the support of the City. This year they have some extra wreaths that will be credited to next year and some will be given to Linn Grove Cemetery in Greeley. She hopes to see everyone on December 19, 2020 at the Evans Cemetery for the wreath laying ceremony.

### CONSENT AGENDA

2. Approval of the November 17, 2020 City Council Meeting Minutes
4. Consideration of Resolution Number 42-2020 – A Resolution Establishing the 2021 City Council Meeting Dates and Times
5. Consideration of Resolution Number 43-2020 A Resolution Designating the Public Place for the Posting of Notices of Public Meetings

Mayor Pro-Tern Clark made the motion, seconded by Council Member Mortenson to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

### OLD BUSINESS

3. Consideration of Ordinance Number 738-20 Replat of Lots 1 – 10, Block 11, The Ridge at Prairie View - 2nd Reading

Mr. Ready reviewed the item as depicted in the agenda packet. It is a replat of Lots 1 - 10, Block 11, the Ridge at Prairie View. The applicant has requested to replat and vacate a portion of Outlot D. That would add that portion of Outlot D to the back of those lots, doubling the size of the lots. This would remove the ownership of the property from the developer and HOA to the private lot owners. Mr. Ready turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson explained that the area in question is a thirty foot wide strip of land that runs behind the west side of Lots 1 through 10 in The Ridge at Prairie View. She presented a sample of what one of the lots would look like, with the portion of Outlot D shown in blue and the original lot shown in orange. The sample also included the buildable envelope area for reference. She spoke with several property owners in the area that received the notice and clarified the intent of the application. She also advised that two residents were present to speak.

Mayor Rudy advised that this is not a public hearing, but would like to hear what the members of the audience wish to say.

Grant Hoekstra, 4217 Phlox Lane, Evans, CO stated that he heard there is a thirty foot wide road that has vacated oil and gas lines under it. He understands now that it is a six inch gas line that is in use going from Prairie View to the gas company utility. The idea is to dedicate this area to the property owners of each lot or dedicate the land to the HOA to maintain. He is concerned that future owners will not be aware of the restrictions on the vacated Outlot area on each lot. He is from Illinois, and in Illinois a buyer needs to have a lawyer at closing to review the contract. In Colorado, most people just take the word of the real estate agent. He



had a hard time even getting a copy of the HOA rules. He recommended installing a berm to help alleviate flooding during heavy rains. He is also concerned that property owners will dig for trees and fences within the Outlot area. He also complained about the pile of dirt located in the circle on the west with capped off oil wells. He is worried that children will be sledding down it after a snowfall and will end up in the road and the potential for an accident to happen. He would like to see the developer address it quickly.

David Ellsworth, 4228 Paintbrush Drive, Evans, CO is the President of the HOA. He was concerned that the area would be deeded over to the HOA. He now understands that is not the case. He is also concerned about future property owners not being aware of the building restrictions of the Outlot area. He thanked the Council for being thorough in this process. The Outlot area is a little above grade for both The Ridge at Prairie View and Cave Creek. The HOA will work with the homeowners regarding fencing within the Outlot area. Everything seems to be fine from the HOA's perspective. In response to the other issue raised by Mr. Hoekstra, there is another circle located on the east side of the development which has had the remediation done to remove the well head and bring it down to grade. His assumption is that has been contracted out to be completed on the west side but just has not yet been completed.

Patrick Groom, Attorney for the developer, D-WP of The Ridge at Prairie View, was present and addressed the concerns that were raised by Mr. Hoekstra. There were two wells that were plugged and abandoned within the circle area on the west. The circle on the east also had plugged and abandoned wells that were capped and the area re-graded. That is the same plan for the circle on the west. The issue is that the wells were not plugged at the correct grade when owned by Noble. Those wells are now owned and controlled by PDC Energy, who is the only party that can authorize cutting those down to grade. The developer had reached out to PDC Energy in the fall and PDC Energy has agreed to cut those down to grade. PDC Energy is in the process of doing so. He does not know the schedule but it is his understanding that the remediation will happen fairly quickly. As far as the issue on the agenda, he addressed Council at the previous meeting and explained what the proposal is. The gas line that is still active is operated by DCP Operating Company, LP. It is a gathering line, not a flow line. The line is collecting production offsite and bringing it through The Ridge to the Greeley Gas Plant, which is located approximately 1/4 mile south of the subdivision. At some point that line will be cut and abandoned. That line was potholed during the application process and it was found that the line is more than four and a half feet below ground. The chance of hitting the line when installing a fence or planting a tree is very minimal. A gathering line is a public record and is located on the Plat. He spoke with Mr. Hoekstra to explain the proposal. The developer is also willing to place a marker on each lot to identified the buried line.

Council Member Speer asked if more than one location was potholed to locate the line. Mr. Groom responded that the line was potholed approximately every twenty feet.

Council Member Johnson was concerned about tree roots that may go deep into the ground but was able to find that typical trees approved by the HOA go approximately three feet down.

Council Member Speer is happy to hear that the developer is willing to mark where the line is located. Although that may not eliminate a property owner from doing their own

thing and hopes that an owner will seek the proper permits before doing any work, like adding a swimming pool.

Council Member Mortenson stated that before any owners can make any changes to their property, they must get approval from the HOA. It would be a multi-step process for anyone to do anything in that neighborhood. As far as substantial rain events, it will flood in that neighborhood no matter what. As much as she does like the idea of berm, it will not stop the water from running through the neighborhood.

Council Member Johnson added that the HOA would be the first point of contact and the HOA should be able to provide a list of acceptable trees that can be planted whose roots will not go down further than the gas line.

Council Member Mortenson stated that there is a list of approved plants and materials that can be used provided by the HOA.

Patrick Groom stated that DCP Operating Company, LP has a right to access their line and there is an easement agreement that allows them to remove any obstructions that are built or planted within the easement.

Council Member Castle appreciates that work on this and believes that resident education is essential. The applicant has done their due diligence in ensuring the safety and welfare of the residents. She previously voiced concerned about people erecting a structure or digging and thinks placing a marking is a great idea.

David Ellsworth stated that Council Member Mortenson is correct in that residents must follow the City guidelines regarding the type of tree you can plant that are not deep-rooted trees and do not grow too high.

Mayor Pro Tem Clark made the motion, seconded by Council Member Castle to approve Ordinance 738-20 on second reading as proposed with the development standards. The motion passed with all voting in favor thereof.

6. Public Hearing: Consideration of Ordinance Number 733-20 to Repeal and Replace Sections 18.06.060, 18.06.070, 18.06.080 and 18.06.090 of the Land Development Code - 1st Reading

Mayor Rudy opened the public hearing at 7:33 p.m.

Mr. Ready reviewed the item as depicted in the agenda packet. The intent is to repeal and replace sections of the Code that are confusing and deal with processes that have site plans, minor development plans, and special uses that are located in different places within this part of the Code. This would bring those processes together under one section, add a "Redevelopment" definition, clarify setback distances and update the zoning tables. He turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson reviewed the proposed amendments. The first would amend Chapter 18.06.060 regarding the pre-application process. The second would amend section 18.06.060.C regarding plot plans. The third would amend section 18.06.060.D creating a new



land use process for redevelopment. The fourth would amend section 18.06.060.E regarding the site plan process. The fifth would amend 18.06.060.F regarding the Special Use Permit process. The packet contained both a redline version and a clean version for comparison. The next revision refines the existing table listing residential bulk requirements. The next section adds the definition of "Redevelopment". The next section would clarify the intent of Development Standards. The next section would clarify the Public Notice requirements to reduce redundancy. The final section clarifies the land use tables. Planning Commission did have two work sessions and a public hearing on the proposed revisions and have recommended approval.

There were no members of the audience wishing to speak in favor of the proposed.

There were no members of the audience wishing to speak in opposition of the proposed.

Council Member Speer recommended that the Planning Commission minutes reflect who made comments. She did not have any questions on the proposed.

Mayor Rudy closed the public hearing at 7:42 p.m.

Council Member Neal is happy that the sections are being clarified and that the redundancies are being eliminated.

Mayor Pro Tem Clark thanked staff for their work and believes this shows that Evans is a business-friendly community and encourages growth and development.

Council Member Castle thanked staff for their work on this.

Council Member Johnson agrees with the other Council members comments and believes this will help builders and developers and will streamline the processes.

Council Member Mortenson made the motion, seconded by Council Member Neal, to approve Ordinance Number 733-20. The motion passed with all voting in favor thereof.

## NEW BUSINESS

7. Consideration of Resolution Number 38-2020 A Resolution Approving Variance Request for Property Referred to Generally as Innovative Foods, located at 4320 Industrial Parkway

Mr. Ready reviewed the item as depicted in the agenda packet. This business suffered a fire in early 2020 and is in the process of rebuilding. They have gone before the Zoning Board of Appeals and are requesting the variances to be competitive in their market. He turned the meeting over to Lauren Richardson, City Planner.

Laura Richardson explained that Innovative Foods is a meat processing company that has been in Evans since 2007. They provide commercial meat processing for businesses and private customers. They also have a retail component that is open to the public. In March, 2020 there was a fire at the facility. The main building was demolished in July, 2020 leaving remaining structures on the north and east portions of the property. The new

proposed building footprint extends further south and west to accommodate the building expansion. The first variance is to reduce the side street setback from 25 feet to 11 feet. The second variance is to reduce the landscaping strip requirement from 10 feet to 8.9 feet along the west property line and 7.2 feet along the south property line. The application followed Sections 18.06.100 and 18.10.010 of the Code and was heard by the Zoning Board of Appeals on November 24, 2020 with a positive recommendation to Council. The application has met the criteria to grant the variances.

Mayor Pro Tem Clark is in favor of the request. The variances are minimal and will allow Innovative Foods to rebuild bigger and stronger and continue to do business within the City of Evans.

Council Member Speer asked when Innovative Foods is planning to start to rebuild. Anne Best Johnson responded that the City is working with them to get their building permits issued incrementally so they can start as soon as possible. Council Member Speer stated that this business is highly needed and was needed six months ago. If you have animals that need to be processed, there is currently about a year to wait. Most facilities are booked until November, 2021. It is very important they rebuild as soon as possible. They are a USDA certified business and are highly desired to have in Evans. She is in support of this business.

Council Member Johnson echoes Council Member Speers' comments. Innovative Foods has been within Evans for some time now and anything the City can do to assist them with their business should be considered. It is unfortunate what happened to them. She appreciates the assistance from surrounding communities with the response to the fire. She is supportive of the request.

Mayor Rudy is also supportive. It is an important business to our City and they have been great to the City. The variance request is minor and he is in favor.

Council Member Speer made the motion, seconded by Council Member Neal to approve Resolution Number 38-2020 as proposed. The motion passed with all voting in favor thereof.

8. Consideration of Resolution Number 34-2020 to Make Factual Findings Determining Annexation Eligibility for Annexation of Certain Real Property located at 4333 West Service Road and 1280 Brantner Road owned by Kyle McConnell and Brian Spaeth

Mr. Ready reviewed the item as depicted in the agenda packet. The Resolution is procedural to make factual findings of the legal eligibility for the annexation. He turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson stated that the Resolution is to determine that the properties are eligible to be annexed to the City pursuant to Colorado Statutes. The parcel located at 4333 West Service Road is contiguous by 50%. The southern property line and eastern property line touch property that is within the City limits. The property at 1280 Brantner Road is contiguous by 20% to property within the City limits. The minimum requirement is 16.67%. Staff, working with the Assistant City Attorney, has determined that the two properties are eligible for annexation.



Mayor Pro Tem Clark made the motion, seconded by Council Member Johnson to approve Resolution Number 34-2020 as proposed. The motion passed with all voting in favor thereof.

9. Public Hearing: Consideration of Ordinance Number 736-20 Concurrently Annexing and Zoning Certain Real Property located at 4333 West Service Road and 1280 Brantner Road owned by Kyle McConnell and Brian Spaeth and accepting the Annexation Agreement - 1st Reading

Mayor Rudy opened the public hearing at 7:58 p.m.

Mr. Ready reviewed the item as depicted in the agenda packet. Now that Council has found that the properties are eligible for annexation, the next step is to approve an Ordinance to annex and zone the properties concurrently. He turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson explained that the Planning Commission entertained the change of zoning at their public hearing. After conferring with the City Attorney, the Planning Commission can hear a zoning request and they have made a recommendation to Council. The proposed Ordinance is not authorizing any land use, it is just establishing the zoning district. Separate land use applications will need to be submitted at a later time. Included in the packet is an Annexation Agreement, which was returned executed to the City by the property owners. The Agreement contains conditions, such as inspection by City officials, right-of-way dedication to the City and continued clean up of the properties. Any future development on the properties will require a development agreement or site improvement agreement.

There were no members of the audience wishing to speak in favor of the proposed.

There were no members of the audience wishing to speak in opposition of the proposed.

Mayor Rudy closed the public hearing at 8:03 p.m.

Council Member Speer is glad the City is considering this annexation and that the property owners want to clean the properties up. She does have concerns over what the future use might be, but understands this is not the appropriate time for that. She is in favor of the annexation.

Council Member Neal is also glad that the properties are getting cleaned up. Residents have commented to him about these properties and he did not realize that it was still under county jurisdiction. He is in favor of the annexation.

Council Member Mortenson made the motion, seconded by Council Member Neal to adopt Ordinance 736-20 as proposed to annex certain territory known as 1280 Brantner Road comprised of 2.39 +/- acres into the City of Evans and to concurrently zone the property I-1. I move to annex certain territory known as 4333 West Service Road comprised of 0.466 +/- acres into the City of Evans and to concurrently zone the property

85-RC-R. I also move to accept the Annexation Agreement. The motion passed with all voting in favor thereof.

10. Consideration of Resolution Number 40-2020 Regarding Approval of the 2021 Fee Schedule

Mr. Ready reviewed the item as depicted in the agenda packet. This consolidates all the fees into one Fee Schedule. He believes this will serve the City and Council well and will be easier to update moving forward. He turned the meeting over to Jacque Troudt, Finance Director.

Jacque Troudt explained that the schedule will adopt all the fees into one area. In previous years, fees had to be updated in numerous different locations by several different Resolutions. The fees will be effective January 1, 2021. The finance team worked with staff from various different departments in conjunction with the budget process. At that time, each of the fees were reviewed to determine if they were competitive to comparable communities while remaining reasonable for the City. She reviewed some of the major changes in the schedule, including utilities fees, water rates, refuse fees, impact fees, recreation facility rental fees and development review fees. Once approved, the fee schedule will be published on the website and hardcopies will be available for staff's reference as well.

Council Member Neal is glad that these are being incorporated into one schedule. This will benefit residents and developers to find all the fees in one area.

Council Member Castle thanked staff for their hard work.

Council Member Johnson also likes everything in one place and believes it cleans it up. She also thanked staff for their efforts put into it.

Council Member Speer made the motion, seconded by Mayor Pro Tem Clark to approve Resolution Number 40-2020 to adopt the 2021 Fee Schedule. The motion passed with all voting in favor thereof.

11. Public Hearing: Consideration of Ordinance Number 741-20 Amending the 2020 Budget - 1st Reading

Mayor Rudy opened the public hearing at 8:12 p.m.

Mr. Ready reviewed the item as depicted in the agenda packet. This is the second budget revision for 2020. It is a rather lean budget revision with only a few items. The revisions were essential to moving some projects forward this year, especially in the Enterprise Fund. He turned the meeting over to Jacque Troudt, Finance Director.

Jacque Troudt reviewed the revisions that were reviewed with the Finance Committee on November 10, 2020 and City Council at the November 17, 2020 Work Session. There have been no changes since being reviewed.

There were no members of the audience wishing to speak in favor of the proposed.

There were no members of the audience wishing to speak in opposition of the proposed.



Mayor Rudy closed the public hearing at 8:15 p.m.

Mayor Pro Temp Clark is in favor of the request and believes this is the lightest budget revision in a long time.

Council Member Neal is glad that the City is able to use the road tax to offset some road project expenditures. He is also glad to see signs up promoting the use of the road tax funds.

Council Members Castle and Johnson thanked staff for their work on this item.

Mayor Pro Tem Clark made the motion, seconded by Council Member Johnson to approve Ordinance Number 741-20 on first reading. The motion passed with all voting in favor thereof.

#### 12. Consideration of Resolution Number 39-2020 Establishing the 2021 Property Tax Levy

Mr. Ready reviewed the item as depicted in the agenda packet. This is the last step in establishing the annual budget. He turned the meeting over to Jacque Troudt, Finance Director.

Jacque Troudt explained that the Resolution allows her as Treasurer to certify with the County, prior to December 15th as required, the Mill Levy for year 2020 will remain at 3.536 mills, consistent with historical and advised the property tax revenue estimate for 2021 would be just shy of \$684,000.

Mayor Pro Tem Clark would like to have a work session to discuss possible adjustments on future mill levy rates.

Council Member Speer would also like information on the mill levy rates for surrounding communities.

Mayor Pro Tem Clark made the motion, seconded by Council Member Mortenson to adopt Resolution Number 39-2020. The motion passed with all voting in favor thereof.

#### 13. Consideration of Tuscany Non-Potable Irrigation and Grading Construction Contract Award

Mr. Ready reviewed the item as depicted in the agenda packet. The bids have been received and Council has just approved the budget revision to allow this project to move forward. This has been a multi-year project since the bankruptcy of the developer back in the mid 2000's. He turned the meeting over to Mark Oberschmidt, City Engineer.

Mark Oberschmidt explained that the City received six bids. The low bidder was L4 Environmental. Their references were checked and staff met with them onsite. Staff is comfortable with them as a contractor. They have experience working with dirt in and around water. Not many contractors have that experience. They are a solid contractor and they are local.





Council Member Neal is glad to see this project moving forward. L4 Environmental was approximately \$300,000 less than other bidders and believes the Tuscany HOA members will be pleased with that as well.

Council Members Castle and Johnson thanked staff for their work.

Mayor Pro Temp Clark appreciates the time that staff has dedicated to his project in researching the company. It makes the process easier.

Council Member Mortenson made the motion, seconded by Council Member Neal, to award the Tuscany Non Potable Irrigation & Grading Project Contract to L4 Environmental and to authorize the Mayor's signature on an agreement in the amount of \$833,099 with a not to exceed amount of \$916,409 including a 10% contingency to be accessed with City Manager approval to handle unforeseen circumstances that may occur within the project. The motion passed with all voting in favor thereof.

## REPORTS

### 14. City Manager

Mr. Ready provided updates on numerous projects including snow and ice, holiday lights, road signs, road projects and storm sewer projects.

### 15. City Attorney

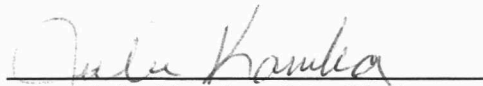
City Attorney, Scott Krob, advised City Council that the Eastwood Village case was dismissed with prejudice.

## AUDIENCE PARTICIPATION

Julie Kamka, City Clerk advised that Pat Kelly, 3129 39th Avenue, Evans, CO asked a question virtually regarding adding speed bumps or other speed reducing options along 39th Avenue. Chief Brandt had responded to Pat Kelly's questions online. Mark Oberschmidt also addressed the questions and advised he would contact Pat Kelly as well.

## AJOURNMENT

The meeting was adjourned at 8:35 p.m.

  
Julie Kamka, City Clerk



## **CITY OF EVANS – MISSION STATEMENT**

**“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”**

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.